

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO.: 1:20-MJ-00080

August 3, 2020

Abingdon, Virginia

Motion Hearing

-v-

DYLAN STEPHEN JAYNE,

Before:

PAMELA MEADE SARGENT

UNITED STATES MAGISTRATE JUDGE

Defendant.

WESTERN DISTRICT OF VIRGINIA

APPEARANCES:

For the Plaintiff:

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For the Defendant:

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Recorded by: Ella Surber
Transcribed by: Mary J. Butenschoen

PROCEEDINGS TAKEN BY FTR, TRANSCRIBED USING COMPUTER-AIDED
TRANSCRIPTION

1 (Proceedings commenced 11:38 a.m.)

2 THE COURT: Good morning. The Court has before it
3 this morning the case of *United States of America v. Dylan*
4 *Stephen Jayne*. It's Case Number 1:20-MJ-80.

5 Mr. Jayne is before this Court for his initial
6 appearance in this Court. He would be due today for an
7 initial appearance and also has the right to a probable cause
8 hearing because he's charged right now on criminal complaint.
9 However, I do note that the Court has pending before it today
10 a motion for a psychiatric examination the government filed.
11 It's Docket Item Number 8. And the government filed a motion
12 for a psychiatric examination that the Court intends to take
13 up first. Depending on my determination on that, we may or
14 may not go forward with the initial appearance today and/or
15 set his probable cause hearing or hold his probable cause
16 hearing and/or a detention hearing.

17 Let me just ask Ms. Dickenson, the government's
18 motion was filed some time ago. Mr. Jayne, of course, was
19 arrested in another district and was transported to this
20 district. Is the defense contesting the motion for a
21 psychiatric examination?

22 MS. DICKENSON: No, we do not take any position
23 regarding that motion.

24 THE COURT: All right. Does the government have
25 evidence to present today other than that contained in the

1 motion?

2 MS. BOCKHORST: Your Honor, may I proffer on what
3 has occurred in the courtroom before your appearance?

4 THE COURT: You may, and we'll see what the defense
5 response to that is.

6 MS. BOCKHORST: Your Honor, Mr. Jayne is presenting
7 today much as he did in the EDVA, and I watched part of that
8 EDVA, the last hearing. He has been yelling at his counsel
9 regarding them bringing him a food stamp card.

10 THE COURT: I'm going to have to ask you to speak up
11 just a little bit.

12 MS. BOCKHORST: Yelling that they did not bring him
13 a food stamp card, that he has an appointment to go shopping.
14 He clearly doesn't seem to understand what he's here for. He
15 was yelling that he did not want any part of their mental
16 health court, which maybe suggests he has some idea of why
17 he's here, but he certainly -- just as what I witnessed in the
18 EDVA and what was reported back to me, he does not seem to
19 understand what is actually transpiring in the courtroom. And
20 he certainly does not seem to be capable of having a
21 conversation that is on point to what is actually happening.

22 The SAUSA at EDVA had called back after the first
23 hearing with grave concerns about his competency. And from
24 what I witnessed both at the EDVA hearing and here today
25 before the hearing, I have to say I share those concerns.

1 Agent --

2 THE COURT: Excuse me just one moment. Can you
3 print -- I didn't bring that motion with me because I thought
4 you would print it. It's Number 8.

5 There was an allegation in the motion that Mr. Jayne
6 had previously been diagnosed with schizophrenia.

7 MS. BOCKHORST: Yes, ma'am, and Agent Stith is here
8 if you need to hear evidence as to that, but my understanding
9 is there have been a series of contacts going back since 2008
10 between the U.S. Capitol Police and Mr. Jayne. The first time
11 they note based upon their conversation with him, they
12 notified D.C. police, and it was their understanding he was
13 involuntarily committed after that.

14 They have had conversations with his mother and his
15 sister, including since his arrest, in which they -- they said
16 he had been diagnosed with schizophrenia, that he is fine when
17 he's medicated, but he is not taking his medication. As a
18 result they have had very little contact with him, my
19 understanding is, the last ten years. But his mother had
20 relayed I believe to Agent Stith that if he would be medicated
21 he would not be a danger to anyone. That she believed that
22 this is -- she believed that this is all -- his behavior or
23 the alleged threats are all due to his illness.

24 THE COURT: Okay. Ms. Dickenson, let me ask, have
25 you had a chance to consult with Mr. Jayne?

1 MS. BOCKHORST: I have, Your Honor.

2 THE COURT: I want to be clear about this: As an
3 Officer of the Court, if you have concerns about your client's
4 competency, the Court expects you to raise that with the
5 Court. I'm not a mental health expert, and I don't -- you
6 know, I don't have the ability just to look at folks to tell
7 if they are competent or not competent, and I have to rely on
8 experts to tell me that. But in cases where it's an issue,
9 sometimes I have little resort, other than to ask the experts
10 to give me an opinion on that. I mean, it certainly would
11 seem that the facts that are alleged at least in the motion
12 raise some serious concerns.

13 THE DEFENDANT: Is there a general scheduled
14 paycheck available for you, and --

15 THE COURT: Mr. Jayne?

16 THE DEFENDANT: -- and and ID for Mr. Jayne?

17 THE COURT: Mr. Jayne?

18 THE DEFENDANT: Is there?

19 THE COURT: Mr. Jayne?

20 THE DEFENDANT: I can't be anybody, Miss, I can't,
21 but --

22 THE COURT: You can't be Mr. Jayne?

23 THE DEFENDANT: I can have individual check fraud,
24 but I can't be myself.

25 THE COURT: Okay.

1 THE DEFENDANT: Like consumers card and advancements
2 for employment, their response? It's really embattled with
3 themselves as a party to involve the news, but why cyber
4 attack me like it's -- you know, it's a convenience? It's not
5 a convenience to cyber attack anyone that you won't let them
6 out --

7 THE COURT: Mr. Jayne?

8 THE DEFENDANT: -- as a mental health. That's an
9 excuse for everybody else (indiscernible) paycheck.

10 THE DEFENDANT: Mr. Jayne, I'm going to ask that you
11 not voluntarily speak unless I ask you something.

12 THE DEFENDANT: It's really not a wedding. I wasn't
13 invited to get one.

14 THE COURT: And I want to fully understand that,
15 okay? But the reason I'm really concerned about you speaking,
16 sir, is that you might say something that could be used
17 against you.

18 THE DEFENDANT: Well, I have, you know, more awarded
19 money I don't receive, and their process never rewards me in
20 the past six years that it was belonging to them at the bank,
21 that I should stay in the mental health award. It was
22 actually given to me as a generally scheduled paycheck and
23 that they weren't rewarding it to me in their process. As a
24 single appointment there was a lot more involved there than I
25 could, you know, comprehend individual status.

1 THE COURT: I hear your concerns. That's really not
2 the issue right at this moment, Mr. Jayne, if you will give me
3 a moment, okay?

4 Ms. Dickenson?

5 MS. DICKENSON: Your Honor, given Mr. Jayne's
6 apparent confusion today, there are times when he does seem to
7 understand why he's here. He recalls the Court's name. He's
8 requested a bond today. So there is some general
9 understanding of the fact that he is in custody and he would
10 prefer not to be in custody. But there are some obvious
11 difficulties in communicating with Mr. Jayne.

12 We have discussed with the government the motion
13 that they have filed. Our concern, Your Honor, is a transfer
14 of Mr. Jayne to a federal medical facility given the COVID-19
15 pandemic and the large number of positive cases at both Butner
16 and Lexington. I'm not sure Lexington is performing
17 evaluations now or not, but those facilities have large case
18 numbers.

19 THE COURT: Let me ask you this: I know in the past
20 the public defender has hired a mental health expert to do an
21 initial evaluation of someone and to determine whether or
22 not -- an inside evaluation to determine whether or not they
23 are competent. And that would give us at least something to
24 go on.

25 Does the Public Defender's Office have the ability

1 to do that in this case.

2 MS. DICKENSON: Your Honor, I've made some
3 preliminary investigations about availability of an expert
4 to -- who would come to the Abingdon jail given the pandemic,
5 Dr. Shah from ETSU. He is now retired but continuing to do
6 private work.

7 THE DEFENDANT: Is that a problem with James Purcell
8 from the UK or the British Royal Family that it's involved
9 with their media --

10 THE COURT: Mr. Jayne?

11 THE DEFENDANT: -- located at the NSA address? It
12 wasn't a problem with Carbon County and me living there. It
13 was an issue if I moved to Vermont and trespassing on
14 property, he threw my application in the garbage. And I had
15 that mailed to you in your complaint on September 19, 2019. I
16 mailed it to you from Vermont.

17 THE COURT: Mr. Jayne, please, sir, when you speak
18 to the Court, leave your mask in place, okay? Thank you. I
19 appreciate that. Thank you.

20 You were saying, Ms. Dickenson?

21 MS. DICKENSON: I apologize. Dr. Shah is available
22 to perform the evaluation. He will not come to the jail in
23 person, but if telemedicine can be arranged he's willing to do
24 that.

25 We've also contacted an expert that's been utilized

1 by the Eastern District of Tennessee. Katie Smith is located
2 in Tennessee, in Knoxville.

3 Third possibility is Dr. Rebecca Loehrer in Radford.
4 We have not been able to confirm her availability.

5 There are some possibilities, Your Honor. We
6 understand that the government would have the obligation to
7 pay for the evaluation and is able to do that in the case
8 of -- in recent cases the government has handled the financial
9 responsibility.

10 THE COURT: What would be the government's response
11 to doing some kind of local evaluation to at least give us an
12 idea of exactly what condition Mr. Jayne is in?

13 MS. BOCKHORST: Given the circumstances of the
14 pandemic, we think that that is reasonable.

15 THE COURT: Okay.

16 MS. BOCKHORST: And I'll add that Ms. Dickenson is
17 correct that the financial burden would fall on the
18 government, and I was asked to ask you to include that in the
19 order just so that the paperwork is clear, that it's the
20 government's responsibility to pay for that.

21 THE COURT: Well, what I would like to do is this:
22 Is I would like to set a deadline for a few days to see if we
23 can agree on an evaluator. And if we can make the
24 arrangements for a local evaluator, then I would do an order,
25 ordering, basically, the marshal service to make the

1 arrangements necessary, especially if it needs to be by
2 videoconferencing, to make the arrangements necessary to allow
3 it to happen, to allow the evaluator -- if the evaluator
4 wanted to go in, to allow the evaluator to go in and to state
5 that the government would pay for it.

6 Do you-all think that you-all might have a good
7 chance of doing that within the week?

8 MS. DICKENSON: Yes, Your Honor, I would think.

9 THE COURT: Okay. What I'm going to do at this
10 point is I'm only going to enter an oral order.

11 THE DEFENDANT: I'm not interested in your mental
12 health exam and your, you know, parody of rules. I'm not
13 going to --

14 THE COURT: Right, I hear you, Mr. --

15 THE DEFENDANT: -- attack my identity.

16 THE COURT: I understand you.

17 THE DEFENDANT: You know my identity is my name and
18 my Social Security number. It isn't more like information and
19 their guidelines that they're asking for. I'm not going to
20 agree to it.

21 THE COURT: I hear you, Mr. Jayne, and I hear your
22 position.

23 THE DEFENDANT: The White House Corporation offers
24 addresses and offers shopping money to the right individuals
25 without this procedure of their -- of their media and their

1 introduction of their own concepts. And, you know, reality
2 doesn't exist with them. It exists with me.

3 THE COURT: May I --

4 THE DEFENDANT: In the courtroom I went to the
5 police officer first. I go to the police officer for help
6 when the U.S. Attorney attacks me with a fax machine or it's
7 presented media control with their abilities to use the
8 courtroom.

9 THE COURT: Mr. Jayne?

10 THE DEFENDANT: It's not appropriate since the past
11 money was stolen and, you know, it's my own ability to make
12 choices for myself. It's not theirs. It doesn't ever exist
13 to them with my ID. Those are my taxes to be paid by me.
14 Where the corporation that chose me to have this in my own
15 place that was made in a court order. Not for them to party
16 with at their own place and positions to associate me. I
17 can't do that on my own locked in a jail cell. I can't do
18 that.

19 THE COURT: Mr. Jayne, I hear --

20 THE DEFENDANT: That's a terroristic threat to me.

21 THE COURT: Mr. Jayne, I hear your concerns.

22 THE DEFENDANT: It was really only made for an
23 appointment from the service that was offering me the general
24 scheduled paycheck from the same individuals that say they
25 offer work and employment opportunities at Social Security in

1 their mental health evaluations. It doesn't make a lot of
2 sense since --

3 THE COURT: May I --

4 THE DEFENDANT: -- two weeks ago.

5 THE COURT: Mr. Jayne, may I speak for a moment?

6 Thank you. Thank you, sir.

7 What I'm going to do is I'm going to take the motion
8 under advisement. I'm going to enter an oral order asking
9 counsel to consult and let me know within the week, within
10 seven days, if you can agree on an evaluator and what the
11 terms of that evaluation would have to be, whether it would
12 have to be by telemedicine or going into the jail.

13 And then when I get that information, I will do my
14 order to see if we can arrange, first, to get an evaluation
15 locally, and then, of course, if Mr. Jayne is going to have
16 to -- if he's not competent and he's going to have to be
17 restored to competency, then that's probably going to have to
18 occur at a federal medical facility.

19 THE DEFENDANT: Do I know this is my bail hearing
20 today?

21 THE COURT: Mr. Jayne, I can't --

22 THE DEFENDANT: Do I know this is my bail hearing?

23 THE COURT: I don't know that you know this is your
24 bail hearing, okay?

25 THE DEFENDANT: What was my arrest date? It was

1 like June 25 that was provided a charge that you worked on for
2 the past two years and didn't represent me in the past six
3 years that was my money that's going somewhere else. Awarded
4 to the court from me? I'm not going to like be in a position
5 to accept this is my bail, that you're not posting me any bail
6 or making a result, other than no bail hearing.

7 THE COURT: Mr. Jayne?

8 THE DEFENDANT: Like I don't have an existing
9 service that -- that's invisible to me that I carry. Like
10 this is the only service I have to trust in your courtroom
11 with these individuals trying to take priority on my identity.
12 There hasn't been anything trusted to me they are capable of,
13 other than stealing, theft, wasteful fraud, and, you know,
14 solicitation of my own device.

15 So I really don't appreciate anything that has been
16 in communication with my family or their own identity theft.

17 THE COURT: Ladies, is there anything further in
18 Mr. Jayne's case?

19 THE DEFENDANT: As far as the where the money is,
20 that's everybody that doesn't go through those.

21 THE COURT: All right. What I'm going to do --

22 THE DEFENDANT: This is my bail hearing.

23 THE COURT: -- is I'm going to adjourn the
24 proceedings. I'm going to remand -- remand him to the custody
25 of the marshal service, okay?

1 Court will stand in adjournment.

2 THE MARSHAL: All rise.

3 (The proceedings concluded at 11:54 a.m.)

4 **CERTIFICATE**

5 I, Mary J. Butenschoen, do hereby certify that the
6 foregoing is a correct transcription of the FTR recording in
the above-entitled matter.

7 /s/ 9/30/2020
8 Mary J. Butenschoen, Transcriber